IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2703 of 2007(V)

PETITIONER:

J.D.SREEKALA, SUB REGISTRAR,
EDAPPALLY, ERNAKULAM.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:
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1. THE REGISTRATION INSPECTOR GENERAL,
THIRUVANANTHAPURAM.

2. THE DISTRICT REGISTRAR (GENERAL),
ERNAKULAM.

3. M.K.MURALEEDHARAN, SUB REGISTRAR,
KUZHUPPILLY.

R1 & R2 BY GOVT. PLEADER MR. P. NANDAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 2703 OF 2007

Dated this the 23rd January, 2007.

JUDGMENT

The petitioner while working as Sub Registrar at Edappally has been transferred by Ext.P3 order passed by the Inspector General of Registration. She is posted as Chitty Inspector under the Ernakulam District Registry. Counsel for the petitioner rightly submits that the grievance of the petitioner is not based on the transfer as such because the distance between the two offices is not much and the posting is in an equivalent post. But the petitioner feels aggrieved seeing the allegations made against her in Ext.P3 as the basis for the transfer order. It is submitted that adverse observations have been made behind her back and that the respondents have not shown the courtesy to issue even a show cause notice calling upon her to explain whether the allegations are true or not.

2. I think the above contention of the petitioner merits consideration because the allegations will case a stigma on her. In fact, for passing an order of transfer, it is not necessary to state the facts constituting the allegations which form the foundation for the transfer, because what is required for due compliance of the statutory provision empowering the authorities to transfer

a government employee from one station to another is simply to state that the transfer is in public interest, provided it is genuinely so. If it becomes necessary in a given case to ascertain what exactly was the public interest referred to in a transfer order, the details can be gathered from the relevant records. This Court has the power to call for such records, if need be, in appropriate cases to verify whether the transfer was for bonafide reasons. If the respondents think it necessary to state the details of the allegations which form the basis for the transfer, the employee is entitled to show that the facts alleged in the order touching the conduct of the employee are not correct and that he is innocent. In such cases the employee shall have the right to submit his reply or explanation controverting the allegations.

3. Govt. Pleader on instruction submits that this is not a case where the petitioner is kept in the dark with regard to the facts stated in Ext.P3. According to the Govt. Pleader the petitioner was given notice wherein identical facts have been mentioned based on the report filed by the District Registrar, Palakkad. The petitioner will have the right to submit her representation in reply to the allegations.

4. Having heard the Govt. Pleader also, I find no need to interfere with Ext.P3 order. It is relevant to note that the petitioner has submitted Ext.P4 representation before the first respondent bringing to his notice facts, which according to her, are true and correct. She has denied the allegations stated in Ext.P3 and has requested the first respondent to allow her to continue at Edappally itself.

5. For reasons stated above, I am inclined to dispose of this writ petition with the following directions:-

a) The petitioner is free to submit her explanation to the notice said to have been issued to her based on the report of the District Registrar, Palakkad.

b) The explanation, if any, furnished by the petitioner shall be considered with reference to relevant materials and appropriate decision taken as early as possible.

c) The first respondent shall consider the representation submitted by the petitioner vide Ext.P4 and shall pass appropriate orders for the limited purpose of examining the necessity for transfer. This shall be done within three weeks from the date of receipt of a copy of the judgment.

d) In case it is found that the explanation submitted

by the petitioner in Ext.P4 is acceptable, the first respondent shall re-consider Ext.P3 and re-post the petitioner at Edappally.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for information and compliance.

K.K.DENESAN
Judge

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